

NEWS

Municipal Research

Resources for Local Government • March 2000

I-695 Ruled Unconstitutional

What happens now?

Initiative 695 was ruled unconstitutional in its entirety by Judge Robert Alsdorf in King County Superior Court in a decision issued March 14, 2000. However, this ruling is not the final decision on the validity of Initiative 695. The decision by Judge Alsdorf will be appealed to the Washington State Supreme Court. Oral argument on the case is tentatively scheduled to be heard on June 29, with a final decision expected by late summer or early fall.

What is the impact of the decision by the King County Superior Court?

The most significant immediate impact is that the judge prohibited the state or local governments from holding elections to seek voter approval of increases in taxes, fees, or charges imposed by governmental units as required by Section 2 of Initiative 695. This provision of the initiative required voter approval of any increase in a tax or monetary charge imposed by the state or a local government.

Of course, whether a local government chooses to impose an increase in a tax or fee during the interim period while waiting for a final decision from the state supreme court on the validity of Initiative 695 also involves political and community considerations.

Does this decision affect other election requirements that already existed for some taxes separate and apart from Initiative 695?

No. Previously existing election requirements pertaining to a local government imposing or raising a tax, separate and apart from Initiative 695, are not affected by this decision and remain in effect. For example, excess levy election requirements for the property tax are not affected by this decision and must be followed the same as before.

What is the impact of the decision on the continued collection of the motor vehicle excise tax?

The decision invalidated Section 1, which imposed the \$30 license tab fee, and Section 3, which repealed the motor vehicle excise tax. However, the judge acknowledged that the state has already been implementing the collection of the reduced \$30 car tab fee since January 1, 2000, and concluded that it would be too disruptive to change this scheme of collection at this time. Therefore, the judge did not issue an injunction to change the method of collection that the state has instituted, and the \$30 fee will remain in effect, at least until the state supreme court has ruled on the initiative.

In any case, it seems likely that the motor vehicle excise tax is dead. Even if the state supreme court holds that the section of the initiative repealing the MVET is unconstitutional, the governor and state legislators have indicated the MVET will not be reinstated in its prior form.

What will happen next in the Initiative 695 lawsuits?

As indicated, the decision by Judge Alsdorf will be appealed to the state supreme court. The date for oral argument is tentatively scheduled for June 29. The date for oral argument could be even earlier if both parties agree to an earlier date. A decision is unlikely before late summer or early fall.

Some of the other lawsuits that are seeking clarification of the initiative may be held in abeyance until the supreme court makes its decision. Clearly, if the supreme court also holds the entire initiative to be unconstitutional, then suits seeking clarification of the meaning of the term "tax" as used in the initiative become irrelevant and moot.

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Editor's Note: Our originally scheduled March issue of *Municipal Research News* was primarily devoted to articles on ways to deal with Initiative 695. The recent superior court ruling finding I-695 unconstitutional made much of this information invalid at this time. Therefore, we are replacing our regular newsletter with this shortened edition.

What options are available to the state supreme court in the appeal?

The state supreme court has the authority to take several courses of action. One is to affirm the decision of the superior court and hold Initiative 695 unconstitutional in its entirety. The supreme court may also overrule the decision and hold that all aspects of the initiative are valid and enforceable. Alternatively, the supreme court may decide that part of the initiative is unconstitutional, but decide that other sections are valid and enforceable.

Why was the initiative held unconstitutional?

There were several grounds for deciding that the initiative was unconstitutional. The court held that the initiative:

- violated the constitutional requirement that an initiative have only one subject;
- established an unlawful referendum procedure in violation of the state constitution;
- violated the constitutional requirement that all subjects be identified in the ballot title;
- violated the constitutional requirement that an initiative set forth the text of other laws which it necessarily amends and explain how those amendments are worded or would be implemented.

Where can additional information be obtained on this subject?

One of the best sources of information is the MRSC Web site at www.mrsc.org. Our site also has links to other Web pages with additional information, such as the Association of Washington Cities. On the MRSC home page under "Current Issues" is information on Initiative 695, which contains a special section on "Litigation." The text of the superior court decision can be accessed through a link from this page. Of course, we recommend that you discuss the implications of this lawsuit with your legal counsel and bond counsel. □

Our Apologies

Municipal Research & Services Center apologizes for inadvertently sending out an e-mail virus on Thursday, February 17, 2000. The virus was in a file received from a vendor. Upon inspecting the file, the virus placed a worm into our e-mail program that automatically began sending out messages with a subject line of "check out these links" to our entire distribution list. As soon as we discovered the problem, we immediately sent out a follow-up e-mail warning of this virus. However, we know it did not arrive in time to save some of you from also being infected. The virus was deleted from our system on Thursday afternoon and evening, and we haven't had any problems since.

The good news is that the virus does not and did not destroy or corrupt files. But it was annoying and quite embarrassing. ***We are very sorry for any inconvenience this may have caused you!*** If you have any questions or need help deleting the virus from your system, please call MRSC at (206) 625-1300 or e-mail us at mrsc@mrsc.org. □

AUDITOR'S BULLETIN

Are index-based salary increases for elected officials constitutional?

Auditor's office says "no"

In November 1999, the state auditor's office issued Bulletin No. 1999-01 to all political subdivisions, stating its conclusion that tying salaries of city council members or county commissioners to an index, such as the Consumer Price Index (CPI), is a violation of the state constitution. The bulletin states that "all auditors will examine the salary increases of elected officials in the entities they audit. If the audit staff finds that salary increases have been tied to an index, they will make appropriate recommendations to your organization," presumably in a negative finding. The auditor's office takes the position that "unless the increase can be foreseen at the beginning of the term, salary increases connected to an index violate the constitutional restriction." This conclusion has been supported by a 1994 superior court decision, *Telford v. Thurston County Commissioners and Thurston County*, and by informal opinions from the office of the attorney general. □

Due to the necessity of shortening this quarter's issue of *Municipal Research News*, we are unable to include our library columns, "Resource Sharing" and "New Acquisitions." A comprehensive list of Information Partnership materials may be viewed on our Web site at www.mrsc.org/library/rshare.htm and a listing of New Acquisitions may be viewed at www.mrsc.org/library/newacq.htm. Or you may contact the MRSC library at (800) 933-6772 or (206) 625-1300 for a copy of these lists.

●What's New on the MRSC Web Site?

We have now replaced the computer we use to run our Web site. You will find that the system runs quite a bit faster than before, particularly when doing a search in the RCW, WAC, or a municipal code. We continue to add municipal codes and now host or link to about 50 codes.

In recent months, we've added a variety of new Web pages including ones on Census 2000, brownfields and brownfield redevelopment, alarm systems and false alarms, Council/Board of Commissioners Rules of Procedure, and public libraries. We also continue to build our existing pages including ones on E-government, Initiative 695, nuisances, and telecommunications.

●What's Coming?

We have begun to hold periodic meetings for those of you responsible for maintaining or posting information to your city or county Web site. The first meeting was held in January, and we anticipate holding a second meeting within the next few months. At the initial meeting, we spent time sharing what each of us is doing on our Web sites, and we had presentations from vendors with Web-based permitting, licensing, and procurement systems. If you or someone else in your jurisdiction is interested in getting together periodically

with others who maintain or contribute to their city or county Web site, please contact Fred Ward at MRSC, and we will add your name to the E-mail distribution list to receive notice of future meetings.

●How Do I?

Q. What is the easiest way to locate information on the MRSC Web site?

A. We recommend that you begin your visit to our site by reviewing the list of topics available by clicking on the "Site Index" button at the top of our home page. Many of the topics on the site are listed alphabetically in the index.

We have also provided a variety of other ways for you to find what you're looking for.

1. If you are looking for specific information or a specific document, use the Site Search located at the top of the left-hand side of the home page. Enter one or more search terms, and then press the "Find Items" button just below. Your search results will be ranked according to the frequency of the terms in the document.
2. For legal databases (RCW, WAC, and municipal codes), use the Folio Site Director program. Start by clicking on

one of the buttons at the top of the home page. Or you may search several of these databases at once by clicking on the "Multi-Database Search" option near the top of the left-hand side of the home page. Use the Control-Shift keys to select from among the available databases.

3. If you're looking for a sample ordinance, resolution, job description, contract, agreement, form, or policy, use our Sample Documents libraries located near the bottom of the right-hand column of the home page. You may then browse the descriptions of these documents or conduct a search that is limited to the specific type of document.
4. Or if you would like to familiarize yourself with a subject, use our "Browse Subjects" feature at the top of the right-hand column of the home page. Choose from among broad headings such as Finance, Legal, and Public Works, and then browse the available information.
5. If you still can't find what you are seeking, please feel free to either call MRSC or e-mail us a research request (see form on home page).□

Heads Up Emerging Information for Local Government

●San Diego Budget Goes CD-ROM

San Diego made its four-volume budget for 2000 available to departments and the public on CD-ROM. While a bit bigger than most Washington local government budgets, the concept may be a cost-effective idea to consider. The CD-ROM version will save six tons of paper each year by drastically reducing the numbers of the paper version. (*Mayor's Press Release*, November 22, 1999)

●Enhancing Governance – Ideas for Involving Citizens

Woodinville launched its "Make The Connection" program in January. Each month, citizens are invited to join a city official at a local business, such as a coffee shop. The official responds to questions and conducts public outreach. A topic of interest is selected for each meeting, but the true purpose is to enable the community to connect with their city government.

The program was piloted last year with great success. (*News Release*, January 3, 2000)

Bothell invited residents to attend the Annual Community Involvement Fair, an informal open house on February 3, designed to highlight volunteer opportunities on the city's eight boards and commissions. Terms for Bothell's boards and commissions expire on the same date, making recruitment a once-a-year event. Interested citizens can learn how they can participate in their hometown government by serving on a city board or commission. Written information regarding the objective of each of the boards, membership requirements, and meeting information is made available. Prospective volunteers can meet and ask questions of current board and commission members as well as the city manager. (*Press release*, January 5, 2000)

●Jake Brake® Prohibitions

If you use the term "jake brakes" instead of "compression brakes," be aware that Jake Brake® is a registered trademark of Jacobs Vehicle Systems™. The company feels that signs prohibiting jake brakes may be unfairly using the trademark by making signs brand specific. The company is seeking information on where these "brand specific" signs are posted in order to alert local governments of the trademark problem. Jacobs Vehicle Systems is also interested in educating policy-makers on the issue of compression brake noise which it attributes to improperly muffled vehicles rather than the braking system. The company has an informative page on Engine Brake Noise at <http://www.jakebrake.com/new/noise/noise.htm>. A number of Washington local governments prohibit compression brakes without proper muffling, while others prohibit the use of compression brakes altogether.□

FUNDING UPDATE

Thank You for Your Support!

Legislature passes MRSC funding bill

On behalf of Municipal Research & Services Center, I want to thank all city, town, and county officials who supported our efforts to replace the funds that were lost as a result of Initiative 695.

On March 1, the legislature passed legislation to continue funding for the Municipal Research Council. Substitute Senate Bill 6357 now goes to the governor. This legislation will take a small portion of the cities' distribution of the profits of the state liquor board to fund the city portion of the Municipal Research Council (MRC), the state agency that contracts with the Municipal Research and Services Center to

provide programs and services to local governments. Under this funding plan, each city would support MRC at a level of approximately 26 cents per capita in calendar year 2000 and 51 cents per capita in 2001. The difference is because the MRC budget cycle runs from July 1 to July 1, and the MRC is funded until July 1, 2000. Cities operate on a calendar year budget cycle beginning January 1.

Many legislators were contacted by local officials expressing their support for MRSC's continued funding. Also, legislators were positively influenced by the Association of Washington Cities'

unanimous adoption of a resolution supporting continued funding of the Municipal Research Council. Legislators respect the fact that cities are willing to fund MRC with city monies. This legislation does not adversely affect the state budget and continues a long-standing policy of city support for a city program.

MRSC staff is grateful for the support you have provided during these uncertain times. Your support has been crucial to the passage of this legislation. □

Richard Yukubousky, Executive Director

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